



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-588-877, A-834-809)

Titanium Sponge from Japan and Kazakhstan: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable September 13, 2017.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis at (202) 482-3147 (Japan) and Jonathan Hill at (202) 482-3518 (Kazakhstan), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On August 24, 2017, the U.S. Department of Commerce (the Department) received antidumping duty (AD) Petitions concerning imports of titanium sponge from Japan and Kazakhstan, filed in proper form on behalf of Titanium Metals Corporation (the petitioner).<sup>1</sup> The AD Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of titanium sponge from Kazakhstan. The petitioner is a domestic producer of titanium sponge.<sup>2</sup> On August 29, 2017, September 5, 2017, and September 8, 2017, the Department requested

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<sup>1</sup> See Letter to the Secretary of Commerce re: “Titanium Sponge from Japan and Kazakhstan: Petition for the Imposition of Antidumping and Countervailing Duties” (August 24, 2017) (the Petitions).

<sup>2</sup> See Volume I of the Petitions, at 1-2.

supplemental information pertaining to certain areas of the Petitions.<sup>3</sup> The petitioner filed responses to these requests on August 31, 2017, September 7, 2017, and September 11, 2017, respectively.<sup>4</sup> The petitioner filed revised scope language on September 11, 2017.<sup>5</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of titanium sponge from Japan and Kazakhstan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing titanium sponge in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act.

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<sup>3</sup> See Letter from the Department, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Titanium Sponge from Japan and Kazakhstan: Supplemental Questions,” dated August 29, 2017 (General Issues Supplemental Questionnaire); *see also* Petition for the Imposition of Antidumping Duties on Imports of Titanium Sponge from Japan: Supplemental Questionnaire; *and* Petition for the Imposition of Antidumping Duties on Imports of Titanium Sponge from Kazakhstan: Supplemental Questionnaire. All of these documents are dated August 29, 2017. *See also* Letter from the Department, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Titanium Sponge from Japan and Kazakhstan: Supplemental Questions,” dated September 8, 2017 (Second General Issues Supplemental Questionnaire).

<sup>4</sup> See Letter from the petitioner, “Petitions for the Imposition of Antidumping and Countervailing Duties on Titanium Sponge from Japan and Kazakhstan: TIMET Response to Supplemental General Questions,” (August 31, 2017) (General Issues Supplement); *see also* “Petition for the Imposition of Antidumping Duties on Titanium Sponge from Japan: TIMET Response to Supplemental Questionnaire,” (Japan AD Supplement) *and* “Petition for the Imposition of Antidumping Duties on Titanium Sponge from Kazakhstan: TIMET Response to Supplemental Questionnaire,” (Kazakhstan AD Supplement). Each of these documents is dated August 31, 2017; *see also* Letter from the petitioner, “Petition for the Imposition of Antidumping and Countervailing Duties on Titanium Sponge from Japan and Kazakhstan: TIMET Response to September 6, 2017,” dated September 7, 2017 (Second Supplement); *see also* Letter from the petitioner, “Petition for the Imposition of Antidumping and Countervailing Duties on Titanium Sponge from Japan and Kazakhstan: TIMET Response to September 8, 2017 Supplemental Questions,” dated September 8, 2017 (Second General Issues Supplement).

<sup>5</sup> See Second General Issues Supplement.

The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.<sup>6</sup>

#### Period of Investigation

Because the Petitions were filed on August 24, 2017, the period of investigation (POI) for these investigations is July 1, 2016, through June 30, 2017.

#### Scope of the Investigations

The product covered by these investigations is titanium sponge from Japan and Kazakhstan. For a full description of the scope of these investigations, *see* the “Scope of the Investigations,” in the Appendix to this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup>

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>8</sup> The Department will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>9</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, October 3, 2017, which is

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<sup>6</sup> See the “Determination of Industry Support for the Petitions” section, below.

<sup>7</sup> See Second General Issues Questionnaire; *see also* Second General Issues Supplement, at Attachment D.

<sup>8</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>9</sup> See 19 CFR 351.102(b)(21) (defining “factual information”).

20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, October 13, 2017, which is 10 calendar days from the initial comments deadline.<sup>10</sup>

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD titanium sponge investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

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<sup>10</sup> See 19 CFR 351.303(b).

<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

### Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of titanium sponge to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe titanium sponge, it may be that only a select few product characteristics are commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on October 3, 2017. Any rebuttal comments must be filed by 5:00 p.m. ET on October 13, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Japan and Kazakhstan less-than-fair-value investigations.

### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may

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<sup>12</sup> See section 771(10) of the Act.

result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in a petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that titanium sponge, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>14</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the Appendix to this notice. The petitioner provided its own 2016 production of the domestic like product, and compared this to

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<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>14</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Antidumping Duty Investigation Initiation Checklist: Titanium Sponge from Japan (Japan AD Initiation Checklist), at Attachment II, “Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan,” see also Antidumping Duty Investigation Initiation Checklist: Titanium Sponge from Kazakhstan (Kazakhstan AD Initiation Checklist), at Attachment II, “Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan.” These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

the estimated total production of the domestic like product for the entire domestic industry.<sup>15</sup> We relied on data the petitioner provided for purposes of measuring industry support.<sup>16</sup>

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioner has established industry support for the Petitions.<sup>17</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>18</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>19</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>20</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and that the

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<sup>15</sup> See Volume I of the Petitions, at 6-7 and Exhibit GEN-20.

<sup>16</sup> *Id.* For further discussion, see Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

<sup>17</sup> See Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

<sup>18</sup> See section 732(c)(4)(D) of the Act; see also Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

<sup>19</sup> See Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist, at Attachment II.

<sup>20</sup> *Id.*



petitioner has demonstrated sufficient industry support with respect to the AD investigations that it is requesting the Department to initiate.<sup>21</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>22</sup>

The petitioner contends that the industry's injured condition is illustrated by reduced market share; displacement of U.S. production by subject imports; underselling and price suppression or depression; decline in production, capacity utilization, hours worked, and earnings before interest and taxes, lost sales and revenues; and decline in pricing for downstream titanium products.<sup>23</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>24</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of titanium sponge from Japan and Kazakhstan. The sources of data for the deductions and adjustments

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<sup>21</sup> *Id.*

<sup>22</sup> See Volume I of the Petitions, at 24-25 and Exhibits GEN-5 and GEN-6.

<sup>23</sup> See Volume I of the Petitions, at 1-3, 14-15, 18-47 and Exhibits GEN-1, GEN-2, GEN-5, GEN-6, GEN-10, GEN-12 – GEN-15, GEN-19 – GEN-26, GEN-30, GEN-31, and GEN-33.

<sup>24</sup> See Japan AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Titanium Sponge from Japan and Kazakhstan (Attachment III); and Kazakhstan AD Initiation Checklist, at Attachment III.

relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

### Export Price

For Japan, the petitioner based U.S. export prices (EPs) on price quotes for sales of titanium sponge produced in, and exported from, Japan and offered for sale in the United States, and on average unit values (AUVs) obtained from official import statistics.<sup>25</sup> For Kazakhstan, the petitioner based U.S. EP on an AUV obtained from official import statistics.<sup>26</sup> Where applicable, the petitioner made deductions from U.S. price for movement expenses.<sup>27</sup>

### Normal Value

The petitioner was unable to obtain any prices of sales (or offers for sale) of titanium sponge in Kazakhstan.<sup>28</sup> Additionally, although the petitioner was able to obtain a range of titanium sponge prices in Japan during the 2017 fiscal year from the publication *Nihon Keizai Shimbun*, the petitioner provided evidence indicating that these prices may be based on affiliated-party sales and thus may not be arm's length prices.<sup>29</sup> As a result, the petitioner contends that these home market prices are not usable for determining normal value.<sup>30</sup> Furthermore, for both Japan and Kazakhstan, the petitioner stated that it was unable to find usable third-country titanium sponge prices.<sup>31</sup> Therefore, for both Japan and Kazakhstan, the petitioner based NV on constructed value (CV). For further discussion of the cost of production

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<sup>25</sup> See Japan AD Initiation Checklist.

<sup>26</sup> See Kazakhstan AD Initiation Checklist.

<sup>27</sup> See Japan AD Initiation Checklist; and Kazakhstan AD Initiation Checklist.

<sup>28</sup> The petitioner cited a newspaper article which quotes the President of Ust-Kamenogorsk Titanium Magnesium Plant JSC (UKTMP) (the sole producer of titanium sponge in Kazakhstan according to the petitioner) as saying "100% of UKTMP products are exported..." See Kazakhstan AD Supplement, at 2-3 and Exhibit B.

<sup>29</sup> See Volume II-a of the Petitions, at 6-8; *see also* Japan AD Supplement at 3-4.; *see also* Japan Second Supplement, at 1.

<sup>30</sup> See Japan Second Supplement, at 1.

<sup>31</sup> See Japan Second Supplement, at 1-2.

(COP) and NV based on CV, *see* the section “Normal Value Based on Constructed Value” below.<sup>32</sup>

#### Normal Value Based on Constructed Value

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and profit. The petitioner determined the COM of titanium sponge by adding together the costs of raw materials, labor, maintenance, electricity, other supplies, and factory overhead, as applicable, incurred by the petitioner, adjusted, where possible, for known differences from costs in Japan and Kazakhstan during a contemporaneous period to the POI. Specifically, the petitioner adjusted for known differences in costs by using publicly available labor and energy rates for Japan and Kazakhstan. The petitioner based prices for raw materials, maintenance, other supplies and factory overhead on the petitioner’s own costs as such costs in Japan and Kazakhstan were not reasonably available to the petitioner. The petitioner calculated SG&A expenses, financial expense, and profit based on the experience of Japanese and Kazakh producers of identical merchandise.<sup>33</sup>

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of titanium sponge from Japan and Kazakhstan are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections

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<sup>32</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for all of the investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

<sup>33</sup> *See* Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist.

772 and 773 of the Act, the estimated dumping margins for titanium sponge from Japan and Kazakhstan are as follows: Japan – 69.69% to 95.20% percent;<sup>34</sup> and Kazakhstan - 42.22%.<sup>35</sup>

#### Initiation of Less-than-Fair-Value Investigations

Based upon our examination of the AD Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of titanium sponge from Japan and Kazakhstan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations in these investigations no later than 140 days after the date of this initiation. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Japan AD Initiation Checklist and Kazakhstan AD Initiation Checklist. Public versions of the initiation checklists for these investigations are available on ACCESS.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made.<sup>36</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>37</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all

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<sup>34</sup> *See* Japan AD Initiation Checklist. The petitioner also calculated margins based on a comparison between EP and the home market prices. However, because the petitioner contends that the home market prices are not usable for purposes of determining normal value, we have relied on the estimated dumping margins based on the comparison between EP and CV for purposes of the initiation.

<sup>35</sup> *See* Kazakhstan AD Initiation Checklist.

<sup>36</sup> *See* Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>37</sup> *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.<sup>38</sup>

### Respondent Selection

Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from U.S. Customs and Border Protection (CBP) to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only two companies as producers/exporters of titanium sponge from Japan: Osaka Titanium Technologies Co., Ltd. and Toho Titanium Company., Ltd.; and one company as a producer/exporter of titanium sponge from Kazakhstan: UKTMP. We currently know of no additional producers/exporters of the merchandise under consideration from Japan or Kazakhstan and the petitioner provided information from an independent source as support for its claim that there are only two producers/exporters of titanium sponge in Japan and only one producer/exporter of titanium sponge in Kazakhstan.<sup>39</sup> Accordingly, the Department intends to examine the producers/exporters identified in the Petitions for these investigations. Parties wishing to comment on respondent selection must do so within five days of the publication of this notice in the *Federal Register*. Any such comments must be submitted no later than 5:00 p.m. ET on the due date, and must be filed electronically via ACCESS.

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Japan and Kazakhstan *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the

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<sup>38</sup> *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>39</sup> See Volume I of the Petitions, at Exhibit GEN-14.

public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of titanium sponge from Japan and/or Kazakhstan are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country. Otherwise, these investigations will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>40</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks

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<sup>40</sup> See 19 CFR 351.301(b).

to rebut, clarify, or correct.<sup>41</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

### Certification Requirements

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<sup>41</sup> See 19 CFR 351.301(b)(2).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>42</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>43</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance

Dated: September 13, 2017

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<sup>42</sup> See section 782(b) of the Act.

<sup>43</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).



## Appendix

### Scope of the Investigations

The product covered by these investigations is all forms and grades of titanium sponge, except as specified below. Titanium sponge is unwrought titanium metal that has not been melted. Expressly excluded from the scope of these investigations are:

- 1) Loose particles of unwrought titanium metal having a particle size of less than 20 mesh (0.84mm);
- 2) alloyed or unalloyed briquettes of unwrought titanium metal that contain more than 0.2% oxygen on a dry weight basis; and
- 3) ultra-high purity titanium sponge. In ultra-high purity titanium sponge, metallic impurities do not exceed any of these amounts:

<u>WT %</u>
Aluminum 0.0005
Chromium 0.0001
Cobalt 0.0001
Copper 0.0002
Iron 0.0300
Manganese 0.0010
Nickel 0.0002
Vanadium 0.0002
Zirconium 0.0005
Carbon 0.0150
Hydrogen 0.0100
Nitrogen 0.0020
Oxygen 0.1000

Titanium sponge is currently classified under subheading 8108.20.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of these investigations is dispositive. [FR Doc. 2017-20028 Filed: 9/19/2017 8:45 am; Publication Date: 9/20/2017]